DATE: 3 OCT 1975

REPLY TO
ATTN OF: ISD

SUBJECT: Guidance on responding to congressional inquiries involving disclosure of personal information

· Agency Privacy Act Liaisons

The attached memorandum to agency heads supersedes the draft guidance provided to you earlier this week.

Walter W. Haase
Deputy Associate Director
    for Information Systems

Attachment

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

WASHINGTON, D.C. 20503

OCT 3 1975

TO THE HEADS OF EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: Congressional inquiries which entail access to personal information subject to the Privacy Act

This memorandum provides additional guidance to Executive Departments and Agencies on responding to congressional inquiries which involve access to personal information subject to the Privacy Act of 1974 (5 U.S.C. 552a). This guidance has been coordinated with the congressional committees with legislative jurisdiction and the principal agencies affected. It is intended to assure that implementation of the Act does not have the unintended effect of denying individuals the benefit of congressional assistance which they request.

It is recommended that each agency establish the following as a routine use for all of its systems, consistent with subsections (a)(7) and (e)(11) of the Act:

"Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual."

The operation of this routine use will obviate the need for the written consent of the constituent in every case where the constituent requests assistance of the Member which would entail a disclosure of information pertaining to the constituent.

In those cases where the congressional inquiry indicates that the request is being made on behalf of a person other than the individual whose record is to be disclosed, the agency should advise the congressional office that the written consent of the subject of the record is required. The agency should not contact the subject unless the congressional office requests it to do so.

In addition to the routine use, agencies can, of course, respond to many congressional requests for assistance on behalf of individuals without disclosing personal information which would fall within the Privacy Act, e.g., a

congressional inquiry concerning a missing Social Security check can be answered by the agency by stating the reason for the delay.

Personal information can be disclosed in response to a congressional inquiry without written consent or operation of a routine use-

    -- if the information would be required to be disclosed under the Freedom of Information Act (Subsection (b)(2));
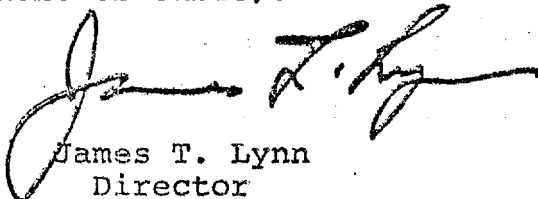
    -- if the Member requests that the response go directly to the individual to whom the record pertains;

    -- in "compelling circumstances affecting the health or safety of an individual..." (Subsection (b)(8)); or

    -- to either House of Congress, or to the extent of matter within its jurisdiction, any committee or subcommittee thereof..." (Subsection (b)(9)).

The routine use recommended above and disclosures thereunder are, of course, subject to the 30 day prior notice requirement of the Act (Subsection (e)(11)). In the interim, however, it should be possible to respond to most inquiries by using the provisions cited in the previous paragraph. Furthermore, when the congressional inquiry indicates that the request is being made on the basis of a written request from the individual to whom the record pertains, consent can be inferred even if the constituent letter is not provided to the agency.

It is urged that all agency personnel who are involved in responding to congressional inquiries (including all field offices) be advised of this policy by the most expeditious means available (e.g., telephone or cable).

James T. Lynn
Director

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